

(2) The Carrier shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of subpart 45.5 of the FAR.

(3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Carrier shall make such repairs as the Government directs. However, if the Carrier cannot effect such repairs within the time required, the Carrier shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Carrier represents that the contract price does not include any amount for repairs or replacement for which the Government is responsible. Repair or replacement of property for which the Carrier is responsible shall be accomplished by the Carrier at its own expense.

(f) *Access.* The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.

(g) *Risk of loss.* Unless otherwise provided in this contract, the Carrier assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, Government property upon its delivery to the Carrier. However, the Carrier is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this contract.

(h) *Equitable adjustment.* When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Carrier's exclusive remedy. The Government shall not be liable to suit for breach of contract for—

(1) Any delay in delivery of Government-furnished property;

(2) Delivery of Government-furnished property in a condition not suitable for its intended use;

(3) A decrease in or substitution of Government-furnished property; or

(4) Failure to repair or replace Government property for which the Government is responsible.

(i) *Final accounting and disposition of Government property.* Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Carrier shall submit, in a form acceptable to the

Contracting Officer, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this contract or delivered to the Government. The Carrier shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to the Government as the Contracting Officer directs.

(j) *Abandonment and restoration of Carrier's premises.* Unless otherwise provided herein, the Government—

(1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Carrier's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if the Government-furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) *Communications.* All communications under this clause shall be in writing.

(l) *Overseas contracts.* If this contract is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished", respectively.

(End of clause)

[62 FR 47578, Sept. 10, 1997]

1652.246-70 FEHB Inspection.

As prescribed in 1646.301, the following clause will be inserted in all FEHB contracts:

FEHB INSPECTION (JUL 2005)

(a) The Contracting officer, or an authorized representative of the Contracting officer, has the right to inspect or evaluate the work performed or being performed under the contract, and the premises where the work is being performed, at all reasonable times and in a manner that will not unreasonably delay the work.

(b) The Contractor shall maintain and the Contracting officer, or an authorized representative of the Contracting officer, shall have the right to examine and audit all books and records relating to the contract for purposes of the Contracting officer's determination of the carrier's subcontractor or

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Large Provider's compliance with the terms of the contract, including its payment (including rebate and other financial arrangements) and performance provisions. The Contractor shall make available at its office at all reasonable times those books and records for examination and audit for the record retention period specified in the Federal Employees Health Benefits Acquisition Regulation (FEHBAR), 48 CFR 1652.204-70. This subsection is applicable to subcontract and Large Provider Agreements with the exception of those that are subject to the "Audits and Records—Negotiation" clause, 48 CFR 52.215-2.

(c) If the Contracting officer, or an authorized representative of the Contracting officer, performs inspection, audit or evaluation on the premises of the carrier, the subcontractor, or the Large Provider, the carrier shall furnish or require the subcontractor or Large Provider to furnish all reasonable facilities for the same and convenient performance of these duties.

(d) The carrier shall insert this clause, including this subsection (d), in all subcontracts for underwriting and claim payments and administrative services and in all Large Provider Agreements and shall substitute "contractor" "Large Provider," or other appropriate reference for the term "carrier."

(End of clause)

[70 FR 31384, June 1, 2005, as amended at 71 FR 3016, Jan. 19, 2006]

1652.249-70 Renewal and withdrawal of approval.

As prescribed in 1649.101-70, the following clause shall be inserted in all FEHBP contracts:

**RENEWAL AND WITHDRAWAL OF APPROVAL
(JAN 1991)**

(a) Pursuant to 5 U.S.C. 8902(a), the contract renews automatically for a term of 1 year each January 1st, unless written notice of intent not to renew is given either by OPM or the Carrier not less than 60 calendar days before the renewal date, or unless modified by mutual agreement.

(b) This contract also may be terminated at other times by order of OPM pursuant to 5 U.S.C. 8902(e). After OPM notifies the Carrier of its intent to terminate the contract, OPM may take action as it deems necessary to protect the interests of members, including but not limited to—

- (1) Suspending new enrollments under the contract;
- (2) Advising enrollees of the asserted deficiencies; and
- (3) Providing enrollees an opportunity to transfer to another Plan.

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(c) OPM may, after proper notice, terminate the contract at the end of the contract term if it finds that the Carrier did not have at least 300 enrollees enrolled in its plan at any time during the two preceding contract terms.

(End of clause)

[52 FR 16044, May 1, 1987, as amended at 55 FR 27418, July 2, 1990; 57 FR 19388, May 6, 1992]

1652.249-71 FEHBP termination for convenience of the government—negotiated benefits contracts.

As prescribed in section 1649.101-71, the following clause shall be inserted in all FEHBP contracts.

FEHBP TERMINATION FOR CONVENIENCE OF THE GOVERNMENT—NEGOTIATED BENEFITS CONTRACTS (JAN 1998)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Carrier a Notice of Termination specifying the extent of terminating and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Carrier shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

- (1) Stop work as specified in the notice.
- (2) Place no further subcontracts except as necessary to complete the continued portion of the contract.
- (3) Terminate all subcontracts to the extent they relate to the work terminated.
- (4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Carrier under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
- (5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
- (6) As directed by the Contracting Officer, deliver to the Government any data, reports, or studies that, if the contract had been completed, would be required to be furnished to the Government.
- (7) Complete performance of the work not terminated.